

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES F. ARNETT,	:	NO. 1:01-CV-00157
	:	
Petitioner,	:	
	:	ORDER
v.	:	
	:	
WANZA JACKSON,	:	
	:	
Respondent.	:	

This matter is before the Court on Respondent Jackson's Motion for Stay of Court's October 8, 2003 Judgment (doc. 13), Petitioner's Memorandum in Opposition (doc. 17), and Respondent Jackson's Reply (doc. 18). Respondent has filed her notice of appeal to the Sixth Circuit simultaneous to the filing of her Motion.

Respondent requests that the Court stay its ninety-day period in which Arnett must be resentenced by the Ohio Courts (doc. 13). Respondent argues under Hilton v. Braunskill, 481 U.S. 770, 776 (1987), that Arnett has not made a strong showing he is likely to succeed on the merits at the Sixth Circuit, that Respondent will be irreparably injured absent a stay, that Arnett will not be substantially injured by the issuance of a stay, and that the public interest is served by keeping Arnett, who voluntarily pleaded guilty to his crimes, in the custody of the state (Id.). Petitioner contests each of Respondent's arguments under Hilton, asserting that had the trial court not considered an impermissible

sentencing factor, he would have received a more lenient sentence, and that a concurrent sentence would have resulted by now in his release (doc. 17). Petitioner argues that the public interest would be at no more risk upon his potential immediate release than it would be upon his eventual release after serving the balance of his sentence (Id.).

Having reviewed this matter, the Court finds Respondent's Motion well-taken. The Court finds that Petitioner, who voluntarily pleaded guilty to serious crimes, will not be substantially injured by the issuance of the stay. As indicated in its Order, the Court found that upon resentencing, Arnett could possibly receive a longer sentence (doc. 9). The Court further finds the staying of this Court's judgment pending the outcome of the Sixth Circuit's review to be in the public interest in community safety, and in accord with the interests of justice.

Accordingly, the Court GRANTS Respondent Jackson's Motion for Stay of Court's October 8, 2003 Judgment (doc. 13), and STAYS such Order (doc. 9) pending appellate review.

SO ORDERED.

Dated: December 3, 2003

/s/ S. Arthur Spiegel

S. Arthur Spiegel
United States Senior District Judge